

**REMARKS**

Claims 1 and 2-30 are pending in the application.  
Claims 8-10 and 16-26 have been withdrawn from consideration.  
Claims 1-30 are subject to restriction requirement.  
Claims 27-30 stand rejected.  
Claims 1, 27 and 30 are amended. No new matter is added.

***Examiner Interview***

Applicant held a telephonic interview with Examiner Graham on August 17, 2005 to discuss the Office Action dated July 6, 2005. Examiner Graham agreed with the applicant that the Applicant could elect a different embodiment if an RCE was filed. This amendment is filed concurrently with an RCE. Thus, Applicant now elects species 2 embodied by FIG. 3 of the present application.

***Restriction Requirement***

Examiner states that Applicant elected species 1 (FIG. 2 embodiment). Claims 1 and 3-7 were amended such that they all are directed at the FIG. 4 embodiment which was non-elected without traverse.

As stated above, Applicant has now elected species 2 embodied by FIG. 3. Independent claim 1 is amended to recite that at least one of the game obstacles is structured to cause a ball to travel in a helical path, reflecting the helical obstacle 30 of FIG. 3. Claims 11-15, which are directed to a helical obstacle are re-entered for consideration.

***Claim Rejections - 35 U.S.C. §103 (a)***

Claims 27-30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 1,870,536 to Vaccaro, Jr. ("Vaccaro") in view of O'Herron and U.S. Patent No. D83,501 to Carter ("Carter"). The rejections are respectfully traversed.

Independent claim 27 recite that each of the obstacles in the croquet obstacle set is structured to be temporarily securable to a playing surface. Specifically looking at FIGS. 3A-B and FIGS. 4A-C in the present application, obstacles 30 and 32 are structured to utilize stakes 36 to temporarily secure the obstacles to a playing surface. Claim 27 also includes an obstacle that is structured to cause a croquet ball to travel in a helical loop and an obstacle that causes a croquet ball to bank around a curve.

The Carter design patent discloses only the ornamental design of a miniature golf course unit that includes a helical pathway for a golf ball. Carter does not disclose or enable how one of skill in the art would alter the helical pathway to accommodate the larger size and weight of a croquet ball. Carter also does not disclose or enable how one of ordinary skill in the art would satisfactorily temporarily secure the helical pathway to a playing field. In fact, because it is only a design patent, Carter does not disclose at all how the helical pathway is secured. Considering that Carter is disclosing a miniature golf course unit, one of ordinary skill in the art could assume that the helical pathway is permanently secured to the miniature golf course putting green. (Looking back at amended independent claim 1, Carter also does not disclose or enable one to temporarily affix a helical obstacle to a playing field).


Claim 27 is amended to clarify that the third obstacle is structured to cause a croquet ball to travel around a banked curve structure. Neither O'Herron nor Carter disclose a banked curve structure.

Therefore art of record cited fails to disclose each and every element of independent claim 27. Thus claim 27 is believed to be allowable over the cited art and allowance is respectfully requested.

For the foregoing reasons, reconsideration and allowance of claims 1, 3-7, 11-15 and 27-30 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, PC

  
James A. Hilsenteger  
Reg. No. 53,023

MARGER JOHNSON & McCOLLOM, P.C.  
210 SW Morrison Street, Suite 400  
Portland, Oregon 97204  
Telephone: 503-222-3613  
Customer No. 20575